

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA : Hon. Katherine S. Hayden
v. : Criminal No. 06-911 (KSH)
DAVID KIRKLAND : ORDER

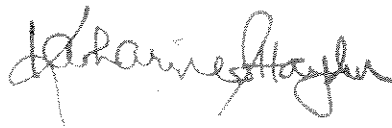
This matter having come before the Court on the motion to vacate the defendant's plea of guilty to Count 3 of the indictment and a hearing having been held before this court on November 12, 2008, defendant David Kirkland being represented by James Patton, and the United States being represented by Christopher Christie (Douglas Herring, Assistant United States Attorney, appearing);

IT IS THE FINDING OF THIS COURT that on July 12, 2008, defendant David Kirkland entered a plea of guilty to Count 3 of the indictment charging interstate transportation of stolen goods in violation of 18 U.S.C. § 2314 Pursuant to Rule 11(b)(3) of the Federal Rules of Criminal Procedure, the Court was required to determine that there was a factual basis for the plea prior to the Court accepting the plea. Defendant David Kirkland made a factual allocution during the plea hearing by answering questions posed by the Court in regard to several specific instances of burglary and interstate transportation of stolen goods. The defendant's factual allocution, however, did not encompass the particular burglary and interstate transportation of stolen goods charged in Count 3 of the indictment, the count to which the defendant entered his plea of guilty. At the hearing on November 12, 2008, the Court determined that the plea allocution from defendant David Kirkland did not provide a factual basis, as required by Rule 11(b)(3) of the Federal Rules of Criminal Procedure.

WHEREFORE, on this 14th day of November, 2008,

IT IS HEREBY ORDERED that the plea of guilty from defendant David Kirkland is vacated.

The defendant and counsel are ordered to appear for a status conference on November 19, 2008, at 3:00 p.m.



HONORABLE KATHARINE S. HAYDEN
United States District Judge